

80h



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/737,324	12/14/2000	Mikko Antero Lipsanen	032986-011	9513
27045	7590	09/14/2005		
ERICSSON INC. 6300 LEGACY DRIVE M/S EVR C11 PLANO, TX 75024			EXAMINER SEFCHECK, GREGORY B	
			ART UNIT	PAPER NUMBER
			2662	

DATE MAILED: 09/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/737,324

Applicant(s)

LIPSANEN, MIKKO ANTERO

Examiner

Gregory B. Sefcheck

Art Unit

2662

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 September 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 20-34.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


JOHN PEZZLO
PRIMARY EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments are not convincing. The Examiner has reviewed all of the record and believes the rejections of claims 20-34 are proper.

Regarding the Remarks on pg. 6-7 of the Amendment, the Applicant contends that the introduced delay of Dolev is not the same as the "predetermined amount of time" used in the independent claims.

The Examiner respectfully disagrees. On pg. 4, line 30 through pg. 5, line 5 and pg. 11, lines 5-10 of the specification, the Applicant discloses what is meant by the claimed "predetermined amount of time" used in the independent claims. The Applicant does not explicitly disclose a fixed delay or even a range of delay values. Rather, the Applicant seems to define "predetermined" as utilizing several considerations of the network for introducing the additional delay, while the term "predetermined" is not explicitly used in the disclosure. Similarly, the delay in Dolev is introduced through consideration of network timeout and the temporal relationships determined between events corresponding with the time stamps in the messages while keeping the upper bound network synchronization error as small as possible (see, for example, Col. 3, lines 42-45, line 66-Col. 4, line 5; Col. 4, lines 35-40, lines 46-51; Col. 5, lines 27-47, line 65-Col. 6, line 3; Col. 6, lines 8-15). In this way, it is the opinion of the Examiner that the "random" delay introduced by Dolev is "predetermined" inasmuch as "predetermined" is defined by the Applicant in the specification. Therefore, it is believed that the rejections of claims 20, 32, 33, and 34 are proper.

Regarding the Remarks on pg. 8-11 of the Amendment, the Applicant contends that the Examiner admits that Kainulainen does not teach an additional delay.

The Examiner respectfully disagrees. On pg. 3 of the Final Rejection filed 6/1/2005, the Examiner clearly shows that Kainulainen introduces an additional delay in the propagation of sync messages at certain nodes (Kainulainen; Col. 4, lines 37-43). The Examiner, in identifying what Kainulainen does not disclose on pg. 4 of the Final Rejection, states that Kainulainen "does not explicitly show introducing an additional delay in the propagation of synchronization message in at least certain of the network nodes." This is an unintentional misrepresentation of what is missing from Kainulainen's disclosure with respect to the claims. The Examiner meant to illustrate that Kainulainen does not explicitly show "waiting a predetermined time" to introduce the additional delay. The subsequent disclosure of Dolev, which is shown to meet this missing limitation of Kainulainen, should clarify for the Applicant any unintentional confusion introduced by the Examiner. In any event, it is the opinion of the Examiner that the cited disclosures of Kainulainen meet the limitations of claims 28-31 and, in light of the preceding discussion of Dolev, the Examiner believes the rejections of claims 28-31 are proper.

Regarding the Remarks on pg. 11-12 of Amendment, the Applicant submits that Tikalsky does not provide the missing claim limitations of claim 20.

Again, as discussed above, the Examiner has shown that Dolev properly meets the missing limitations from claim 20. Tikalsky is relied upon to meet the limitations of claims 24 and 27, as shown. Therefore, the Examiner believes that the rejections of claims 24 and 27 are proper.